



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 08470-98

21 March 2000

LCDR [REDACTED] USN

Dear Commander [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested that you be granted a special selection board for promotion to commander. You also impliedly requested removal of your failures of selection by the Fiscal Year (FY) 99 and 00 Line Commander Selection Boards, and amendment of your fitness report for 1 November 1996 to 31 October 1997 to show you were marked "4.0" rather than "3.0" in block 38 ("Leadership") and "Early Promote" rather than "Must Promote" in block 42 ("Promotion Recommendation").

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 20 April and 7 May, 1999, copies of which are attached. The Board also considered your letter dated 10 March 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

Notwithstanding the statement, in paragraph 3 of the advisory opinion dated 20 April 1999, that NPC-311 would have no objection to changing the performance trait mark in the fitness report in question, the Board found the filing of the letter-supplement dated 20 November 1997 adequately corrected any error in block 38 of this report.

Regarding the promotion recommendation, the Board recognized that Bureau of Naval Personnel Instruction 1610.10, enclosure (2), page A-12 says "...members in or above the promotion zone, may receive 'Early Promote' recommendations based on performance and potential value to the Navy." However, they observed this does not preclude using a member's being in zone as a basis not to mark the member "Early Promote." Further, and more important, they noted that the table on page A-13 of the instruction shows a maximum of one "Early Promote" was authorized for the peer group of five lieutenant commanders in the fitness report in question. They noted that this report shows another lieutenant commander was marked "Early Promote," so they found that your reporting senior could not have marked you in that category without lowering the promotion recommendation of the other officer.

The Board found no defect in your performance record as it was presented to the FY 99 and 00 Line Commander Selection Boards, noting that it included the letter-supplement. Therefore, they had no grounds to remove your failures of selection for promotion or grant you consideration by a special selection board.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures



**DEPARTMENT OF THE NAVY**  
**NAVY PERSONNEL COMMAND**  
**5720 INTEGRITY DRIVE**  
**MILLINGTON TN 38055-0000**

8470-98  
1610  
NPC-311  
20 April 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS**

Via: NPC/BCNR Coordinator (NPC-00XCB)

Subj: LCDR [REDACTED], USN [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests to change his fitness report for the period 1 November 1996 to 31 October 1997.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the fitness report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member did not desire to submit a statement. In accordance with reference (a), Annex S, Paragraph S-8, the member has two years from the ending date of the report to submit a statement


b. The reporting senior submitted an evaluation report letter-supplement on 20 November 1997 and was placed on the member's digitized record 9 December 1997. The supplemental letter changes block-38 from 3.0 to 4.0. The reporting senior submitted the supplemental letter in accordance with reference (a), Annex P, stating the reason for the reevaluation.

c. The member's allegation that the performance recommendation was erroneously marked Must Promote vice Early Promote is without merit. The contents of the report, marks, comments and recommendations, represent the judgement of the reporting senior for a specific period of time. They are not required to be consistent with previous or subsequent reports.

d. LCDR [REDACTED] states he firmly believes the fitness report was his main reason for failure to select to Commander. It has long been our position that failure of selection is not sufficient reason to change a fitness report.

e. The member does not prove the report to be unjust or in error.

3. Due to the timely submission of the supplemental letter, we have no objections to change the performance trait mark on the original report if approved by BCNR.



Head, Performance  
Evaluation Branch



**DEPARTMENT OF THE NAVY**

**NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000**

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Ser 85/066  
7 May 99

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LCDR [REDACTED]

Encl: (1) BCNR File

1. Enclosure (1) is returned recommending disapproval of LCDR [REDACTED] request for a special promotion selection board.
2. LCDR [REDACTED] letter supplement to the board dated 20 November 1997 was included with his official record for consideration by the FY99 Active Line Commander Promotion Selection Board. The board had all the information that was required for consideration and records that were presented before it provided a substantially accurate, complete, and fair portrayal of his career, thus, consideration by a special promotion selection board should not be authorized.
3. Recommend his request be denied.

[REDACTED]  
BCNR Liaison, Officer Promotions  
and Enlisted Advancements Division